

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

JASON LEE DETHLOFF,  
Petitioner,  
v.  
DEPARTMENT OF STATE,  
Respondent.

NO. 4:14-cv-5066-LRS  
ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS

By this action, Petitioner asks this Court to compel a federal agency, the Department of State, to issue him a “certificate of loss of Nationality.” Apparently, Petitioner wishes to renounce his U.S. Citizenship and believes such a certificate is necessary to accomplish this end. He states that on August 13, 2013, he sent a letter to the Department of State requesting a certificate, but he has not received a response. Petitioner asserts an “unalienable right to exercise expatriation in accordance to the ‘Act of July 27, 1868.’”

Petitioner is a *pro se* prisoner currently confined at the Coyote Ridge Corrections Center. He does not state that he has complied with all procedures necessary to renounce one’s citizenship as required by the United States Citizenship and Immigration Services. *See* 8 U.S.C. § 1481; *Nishikawa v. Dulles*, 356 U.S. 129, 139 (1958) (Black, J., concurring) (“Of course a citizen has the right to abandon or renounce his citizenship and Congress can enact measures to regulate and affirm such abjuration”); *see e.g. Lozada Colon v. U.S. Dep’t of State*, 2 F.Supp.2d 43, 45 (D.D.C. 1998)(Congress has the power to “set forth the

1 circumstances under which a loss of nationality certification would issue,” and has given  
2 to the Secretary of State by statute the “discretion to determine whether an individual has  
3 adequately renounced affiliation with the United States so as to trigger that right”).

4 The Immigration and Nationality Act of 1952 provides:

5 Except as provided in paragraphs (6) and (7) of section 1481(a) of this title, no  
6 national of the United States can lose United States nationality under this chapter  
7 while within the United States . . . , but loss of nationality shall result from the  
8 performance within the United States or any of its outlying possessions of any of the  
acts or the fulfillment of any of the conditions specified in this part if and when the  
national thereafter takes up a residence outside the United States and its outlying  
possessions.

9 8 U.S.C. § 1483(a). Petitioner’s present incarceration would preclude him from satisfying  
10 the requirement that he reside outside the United States. *See e.g., Sluss v. U.S. Citizenship*  
11 *& Immigration Servs.*, 899 F.Supp.2d 37, 42 (D.D.C. 2012); *see also Koos v. Holm*, 204  
12 F.Supp.2d 1099, 1108 (W.D.Tenn. 2002)(federal prisoner lost his right to renounce his  
13 citizenship while he remained a prisoner).

14 “Lawful incarceration brings about the necessary withdrawal or limitation of many  
15 privileges and rights, a retraction justified by the considerations underlying our penal  
16 system,” *Hewitt v. Helms*, 459 U.S. 460, 467 (1983)(abrogated on other grounds *Sandin v.*  
17 *Conner*, 515 U.S. 472 (1995). *See also Wilkinson v. Austin*, 545 U.S. 209, 229 (2005)  
18 (*Hewitt* “remain[s] instructive for [its] discussion of the appropriate level of procedural  
19 safeguards.”). After Petitioner fully serves his sentence, he is free to travel to another  
20 country and renounce his citizenship to a United States Consular Officer.

21 In the meantime, the act Petitioner wishes to compel, the issuance of a Certificate of  
22 Loss of Nationality, is a discretionary act. *See Weber v. U.S. Dep’t of State*, 885 F.Supp.2d  
23 46, 52-53 (D.D.C. July 25, 2012). It is well-settled that a writ of mandamus pursuant to 28  
24 U.S.C. § 1651 is not available to compel discretionary acts. *See Dunlop v. Bachowski*, 421  
25 U.S. 560 (1974); *Vaca v. Sipes*, 386 U.S. 171, 182 (1967). Therefore, Petitioner’s request  
26 for mandamus relief must be denied.

1 Furthermore, a Certificate of Loss of Nationality does not effect loss of nationality.  
2 *See e.g. United States v. Schiffer*, 798 F.Supp. 1128, 1133 n. 6 (E.D.Pa. 1992). Rather, “[i]t  
3 is merely an administrative method for the Government to keep track, for informational  
4 purposes, of those persons it considers to have voluntarily relinquished citizenship.” *Id.*  
5 Petitioner should be aware that the act of renouncing U.S. citizenship would not allow a  
6 person to avoid possible prosecution for crimes which they may have committed in the  
7 United States, or to escape the repayment of financial obligations previously incurred in the  
8 United States.

9 Because the relief Petitioner seeks is discretionary, **IT IS ORDERED** the Petition for  
10 Writ of Mandamus is **DENIED**. In light of this dismissal and to spare Mr. Dethloff the  
11 financial obligations of the Prison Litigation Reform Act of 1995, 28 U.S.C. § 1915(b), **IT**  
12 **IS FURTHER ORDERED** Petitioner’s pending application to proceed *in forma pauperis*  
13 is **DENIED**.

14 **IT IS SO ORDERED.** The District Court Executive Office is directed to enter this  
15 Order, enter judgment, forward a copy to Petitioner at his last known address and close the  
16 file. The Court certifies any appeal of this Order would not be taken in good faith.

17 **DATED** this 14th day of July, 2014.

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19 *s/Lonny R. Suko*

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LONNY R. SUKO  
21 SR. U.S. DISTRICT JUDGE  
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